

United States Court of Appeals
For the Eighth Circuit

No. 15-1382

John T. Moss

Plaintiff - Appellant

v.

Corizon CMS, Medical provider, Arkansas Department of Correction; Arkansas Department of Correction, State Prison; Corizon, Inc.; Rich Hallworth, Corizon (originally named as Rick Hallworth); Kevin Bice, Corizon (originally named as Kevin Bile); J M Courtney, Corizon; Jack Davidson, Dr., Corizon; Michael Person, Dr., Corizon (originally named as Pearson); Ojiugo Iko, Dr., Corizon; Roland Anderson, Dr., Corizon; Jennifer McBride-Andrews, Corizon (originally named as Jennifer McBride); Connie Hubbard, Nurse, Corizon; Joann Burnett, Nurse, Corizon (originally named as Joe Ann Burnett); Larry May, Arkansas Department of Correction; Wendy Kelley, A.D.C.; Grant Harris, A.D.C.; Jimmy Banks, A.D.C.; Daryl Golden, A.D.C.; Yolanda Clark, Captain, A.D.C. (originally named as Clark); Bradley, Lieutenant, A.D.C.; Barrow, Lieutenant, A.D.C.; Donald Tate, Sargeant, A.D.C. (originally named as Tate); Young, Sargeant, A.D.C.; Madden, Sargeant, A.D.C.; C. Jones, Sargeant, A.D.C.; Daryl Gardner, Sargeant, A.D.C. (originally named as Gardner); Thompson, Sargeant, A.D.C.; Turner, Correctional Officer, A.D.C.; Rayford, Correctional Officer, A.D.C.; Powell, Correctional Officer, A.D.C.; Knight, Correctional Officer, A.D.C.; S. Hudson, Correctional Officer, A.D.C.; Kendall Austin, Correctional Officer, A.D.C. (originally named as Auston); Brandi Hudgens, Correctional Officer, A.D.C. (originally named as Hudgens); Moton, Correctional Officer, A.D.C.; Christopher Shorter, Correctional Officer, A.D.C. (originally named as Shorter); Telicia Dobbs, Correctional Officer, A.D.C. (originally named as Dobbs); Louis, Correctional Officer, A.D.C.; Shabaze, Correctional Officer, A.D.C.

Defendants - Appellees

Appeal from United States District Court
for the Eastern District of Arkansas - Helena

Submitted: November 5, 2015
Filed: November 12, 2015
[Unpublished]

Before LOKEN, BOWMAN, and MURPHY, Circuit Judges.

PER CURIAM.

Arkansas inmate John Moss appeals the final judgment entered by the district court¹ following the court's adverse grant of summary judgment on his federal and state-law claims. Also before the court is a motion filed by some of the defendants, seeking a partial dismissal of the appeal.

After careful review, we agree with the district court's disposition of the federal claims. Specifically, we conclude that the uncontroverted evidence in the record established beyond genuine dispute that defendants did not deliberately disregard Moss's serious medical needs. See Allard v. Baldwin, 779 F.3d 768, 771-72 (8th Cir.) (grant of summary judgment reviewed de novo; to prevail on deliberate-indifference claim, plaintiff must show that he suffered from objectively serious medical need, and that prison officials knew of, but deliberately disregarded, those needs), cert. denied, No. 15-5247, 2015 WL 4388293 (U.S. Oct. 5, 2015). We further conclude that Moss failed to assert a proper basis for a claim under the Americans with Disabilities Act (ADA). Cf. Dinkins v. Corr. Med. Servs., 743 F.3d

¹The Honorable D.P. Marshall Jr., United States District Judge for the Eastern District of Arkansas.

633, 634-35 (8th Cir. 2014) (per curiam) (ADA claim cannot be based on medical treatment decisions). However, we modify the judgment so that the dismissal of Moss's state-law claims is without prejudice. See Franklin v. Zain, 152 F.3d 783, 786 (8th Cir. 1998) (modifying judgment to dismiss without prejudice pendent state-law claim where district court had properly dismissed § 1983 claims). Finally, we conclude that the requested relief in the pending motion is not warranted. See Greer v. St. Louis Reg'l Med. Ctr., 258 F.3d 843, 846 (8th Cir. 2001) (notice of appeal that specifies final judgment should be understood to bring up for review all previous rulings and orders that served as predicate for final judgment).

Accordingly, we affirm the judgment as modified, see 8th Cir. R. 47B, and we deny the pending motion.
